

# THE MICHIGAN LIQUOR CONTROL COMMISSION & LOCAL UNITS OF GOVERNMENT



## *A Guide to the Rights and Responsibilities of Local Governments under the Liquor Control Code*

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## Preface

The hospitality industry in Michigan is a dynamic one that brings jobs and good will to our state and contributes to economic growth. Holding a license to sell alcoholic beverages is often considered an important component of being competitive and profitable within the industry.

Local units of government — cities, townships and villages — and the Michigan Liquor Control Commission (MLCC) work together in both the licensing process and in the enforcement of the state's liquor laws. Whether you are a city or village council member, a township board member or a local law enforcement official or officer, this guide is designed to help you understand how the licensing process works and your role in granting liquor licenses and permits. Additionally, when a local governmental unit is considering adopting a resolution objecting to the renewal of a license or requesting the MLCC to revoke a license, the unit should be aware of the documentation that must be submitted with the resolution. Finally, this guide explains the Commission's position on the responsibilities that local governments have for the enforcement of liquor laws. Obviously, the local government's attorney should be consulted about these matters.

We also provide Questions and Answers to show how the laws and rules are applied in real situations. It may be useful for you to refer to more complete language of the statute or court cases, so references have been provided. **MCL** refers to the Michigan Compiled Laws; **MAC** refers to the Michigan Administrative Code which contains the administrative rules promulgated by the MLCC.

The Commission believes that when local officials have a better understanding of their rights and responsibilities under the Liquor Control Code, our working relationship will be improved with you as well as with applicants and licensees. We must caution however, that this Guide is not intended to be a substitute for the Liquor Control Code and Administrative Rules, or for competent legal counsel.

We welcome your comments and suggestions for future editions of this Guide. Send them to the Commission's Lansing office at the address printed in the back cover. You are also invited to attend our semi annual public hearings where we receive comments from the public on the administration of the Liquor Control Code.

### The Michigan Liquor Control Commission

January 2004

## **On-premises Licensing**

This chapter, directed primarily to members of local government legislative bodies, provides information designed to answer the most commonly asked questions about the **on-premises** licensing process including types of licenses and the quota system for licenses to sell alcoholic beverages. It also describes the role of the local legislative body and local law enforcement officials in the licensing process.

### **On-premises Licenses**

These licenses are issued to allow alcoholic beverages to be sold, served and consumed on the premises of the licensed business:

Class C	This license allows the business to sell beer, wine, liquor and mixed spirit drinks for consumption on the premises. MCL 436.1107(2)
Club	This license enables a private club to sell beer, wine, liquor and mixed spirit drinks to bona fide members only. MCL 436.1107(3)
B Hotel	This license permits a hotel to sell beer, wine, liquor and mixed spirit drinks for consumption on the premises and in the rooms of bona fide guests. MCL 436.1107(9)
A Hotel	This license allows a hotel to sell only beer and wine for consumption on the premises and in the rooms of bona fide guests. MCL 436.1107(8)
Tavern	This license enables a business to sell only beer and wine for consumption on the premises. MCL 436.1113(1)
Brewpub	This license is issued in conjunction with an on-premises license and authorizes the licensee to manufacture and sell beer for consumption on the premises or for take-out. MCL 436.1105(11)
Micro Brewer	This manufacturing license allows a business to sell beer produced on the premises to consumers for consumption on the premises or for take-out. MCL 436.1109(2)
Special License	This license (often called a “24-hour permit”) allows a non-profit organization to sell beer, wine and/or liquor for consumption on the premises for a limited period of time. This includes wine auctions for charities. MCL 436.1111(10)
Resorts	In the years permitted by law, the Commission can issue a limited number of Resort licenses for any of the on-premises classifications except Club and Special licenses, in addition to the quota established by law for these licenses. MCL 436.1531
Class G-1	For 18 hole golf courses selling beer, wine, and spirits. MCL 436.1531(17)
Class G-2	For 18 hole golf courses selling beer and wine. MCL 436.1531(17)

An on-premises licensee often holds a Specially Designated Merchant (SDM) license to sell beer and wine for consumption off the premises, in conjunction with the on-premises license.

## Summary of On-premises License Information

On-premises License Type:	Sell Beer?	Sell Wine?	Sell Liquor?	Licensed to sell to:	Population Quota Applies?
Class C	Yes	Yes	Yes	General Public	Yes
Resort Class C	Yes	Yes	Yes	General Public	No
Club	Yes	Yes	Yes	Club Members	No
B-Hotel	Yes	Yes	Yes	General Public and in guest rooms	Yes
Resort B-Hotel	Yes	Yes	Yes	General Public and in guest rooms	No
A-Hotel	Yes	Yes	No	General Public and in guest rooms	Yes
Resort A-Hotel	Yes	Yes	No	General Public and in guest rooms	No
Tavern	Yes	Yes	No	General Public	Yes
Resort Tavern	Yes	Yes	No	General Public	No
Special License	Yes	Yes	Yes	General Public	No
Class G-1	Yes	Yes	Yes	Paid Members Only	Yes
Class G-2	Yes	Yes	No	Paid Members Only	Yes

### Transferability of Escrowed Licenses

On-premises escrowed licenses issued under MCL 436.1531 are available subject to local legislative approval under section 501(2), to an applicant whose proposed operation is located within any local governmental unit in a county with a population of under 500,000 or a county with a population of over 700,000 in which the escrowed license was located. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, an escrowed license is available, subject to local approval, to an applicant whose proposed operation is located within any local governmental unit in *either county*.

If an escrowed license is activated within a local governmental unit other than that local governmental unit within which the escrowed license was originally issued, the Commission shall count that activated license against the local governmental unit originally issuing the license. The upgrading of a license resulting from a request under MCL 436.1531(1) involving the transfer of an escrowed license, shall be approved by the local governmental unit having jurisdiction.

Administrative Rule 463.1107 states that a licensee shall have 5 years after the expiration date of an escrowed license to put the license into active operation. After 5 years all rights to the license shall terminate unless the Commission receives written verification of circumstances within Rule 7, 2-7.

## **The Quota System**

A quota system exists for retail licenses in order to control the growth of licensed businesses selling alcohol beverages in the state. Simply put, quotas have been established by the Legislature based on a ratio of licenses to population. A change in the demographics of a municipality, whether an increase or decrease, can change the number of licenses available.

The population ratios the Commission uses are different for on-premises and off-premises licenses. For on-premises licenses, one license is granted for each 1,500 of population or **major** fraction thereof. For a Specially Designated Distributor (SDD) who sells beer, wine, and package liquor for consumption off the premises, one license is granted for every 3,000 in population or **any** fraction thereof. There are no quota restrictions for Specially Designated Merchants (SDMs) who sell beer and wine for consumption off the premises.

Examples of the ratios are:

<b>On-premises</b>		
<i>Population</i>		<i># of licenses</i>
1- 2,250		1
2,251- 3,750		2
3,751- 5,250		3
5,251		4 etc.

<b>Off-premises (SDD)</b>		
<i>Population</i>		<i># of licenses</i>
1-3,000		1
3,001- 6,000		2
6,001- 9,000		3
9,001-12,000		4 etc.

Local units of government have an important role to play in the issuing of quota licenses. For example, in the case of an on-premises license, approval is required from a local governmental unit with a population of less than 750,000. In the case of off-premises licenses, local approval is not required but the Commission requires license applicants to meet all appropriate local ordinances, including zoning requirements. There are exceptions to quotas when issuing certain types of licenses. For more detailed information see MCL 436.1531 and MCL 436.1533.

Any of the conditions below can change the number of licenses available within a local unit of government. The MLCC will notify the clerk of the legislative body if:

1. A special or regular census, or annexation, makes additional licenses available.
2. A canceled or revoked license creates an opening in the number of licenses available.
3. An applicant who is approved by the MLCC does not subsequently submit required documents and the license is not issued.
4. An approved applicant does not subsequently open the licensed business within one year of approval and fails to obtain required extensions.
5. The number of unissued but available licenses declines because the population decreases.

### **Filling Quota Openings**

The legislative body of the local governmental unit has the responsibility of determining whether to fill the quota opening for on-premises licenses. If there are a number of applicants for the available license(s), then you must send the Commission a **resolution** as to who was approved for the available license(s).

The Liquor Control Commission cannot approve an application for an on-premises license subject to the quota, without an approval resolution from the local legislative body. However, there is no statutory requirement that a local unit of government **must** approve any application or authorize issuing **all** or **any** licenses available under the quota. The applicants approved by the local legislative body will also go

through the MLCC investigation process prior to consideration by the Commission for a license. This investigation is thorough and concentrates on the applicant's (including all persons) qualifications for the license requested.

### **Waiving the SDD Quota**

The Commission may waive the quota requirement if it has been filled and there is no existing SDD license issued within two miles of the proposed location measured along the nearest traffic route. MCL 436.1533

The Commission can also waive the quota requirement if **all** of the following conditions are met:

- A. the city, township, or village has a population of less than 3,000 and
- B. the only existing SDD license is held in conjunction with an on-premises A-Hotel or B-Hotel license, and
- C. no other waivers have been granted in the local governmental unit. MAC R 436.1135(7)

## **On-premises Licenses Exempt from Quota Restrictions**

**Development District Authorities** - A "development district" is any of the following (MCL 436.1521(9)):

- 1. An authority district established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.
- 2. An authority district established under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.
- 3. A downtown district established under 1975 PA 197, MCL 125.1651 to 125.1681.
- 4. A principal shopping district established under 1961 PA 120, MCL 125.981 to 125.987, before January 1, 1996.

Under MCL 436.1521 the Commission may issue up to 50 tavern or Class C licenses, in addition to the number of licenses provided by quota, to persons or businesses that meet the following requirements:

- 1. The business is a full service restaurant, is open to the public, and prepares food on the premises.
- 2. The business is open for food service not less than 10 hours per day, 5 days a week.
- 3. At least 50% of the gross receipts of the business are derived from the sale of food for consumption on the premises. Food does not include beer or wine sales.
- 4. The business has dining facilities to seat not less than 25 persons.
- 5. The business is located in a development district with a population of not more than 50,000 in which the authority, after a public hearing, has found that the issuance of the license would prevent further deterioration within the development district and promote economic growth within the development district. The commission will not issue a license as outlined in section 521 unless the local unit of government within which the authority is located, after holding a public hearing, passes a resolution concurring on the findings of the authority.

Also, the Commission will not issue a license under section 521 if the local governmental unit within which the development district is located has not issued all appropriate on-premises licenses available under quota or if an appropriate on-premises escrowed license is available in a local unit of government in which the development district is located. The Commission shall not issue more than 2 licenses authorized under section 521 in any city or municipality with a population greater than 50,000. If an applicant's proposed location is within more than 1 development district, the applicant shall obtain the approval of both or all of the applicable local units of government or development districts.

## **Resort Licenses**

Resort licenses may be issued for Class C, Tavern, B-Hotel and A-Hotel classifications without regard to the quota only when it is deemed to be economically desirable and beneficial to the tourist industry. Resort licenses are subject to approval by the local legislative body and must meet the qualifications for both the type of regular license requested and as a Resort.

There are several types of on-premises resort licenses authorized under MCL 436.1531:

1. 550 on-premises resort licenses which are transferrable to any location in Michigan. All of these licenses have currently been issued, but their ownership and location is transferrable.
2. The Commission may issue not more than 10 additional licenses in years designated by statute to establishments whose business and operation is designed to attract and accommodate tourists and visitors to the resort area and whose primary purpose is not the sale of alcoholic liquor. These licenses may be transferred from one owner to another but cannot be moved (location).
3. In addition to 1. and 2. above, up to 20 additional licenses for resort economic development may be issued to applicants who demonstrate that they meet the criteria above and have a minimum investment of \$1,500,000. These licenses may be transferred from one owner to another but cannot be moved (location).

## **Publicly Owned Airports**

An on-premises license may be issued by the Commission to the owner and/or lessee of buildings within a passenger terminal complex of a publicly-owned airport. The airport must be served by regularly scheduled commercial passenger airlines certified by the Federal Aviation Agency or the Civil Aeronautics Board to enplane and deplane passengers. These licenses are not transferrable. MCL 436.1507

## **County Airports**

An on-premises license may be issued by the Commission to an establishment situated on property where there is an airport that is owned by the county or in which the county has an interest. MCL 436.1531(10)

## **Municipally Owned Golf Courses**

An on-premises license may be issued by the Commission to a golf course open to the public and owned by a city, township or village situated in a county with a population of 1,000,000 or more. These licenses are not transferrable. MCL 436.1515

## **Municipal Civic Center or Civic Auditorium**

On-premises licenses may be issued by the Commission to the governing or operating body of a municipal civic center or civic auditorium and/or one or more of its concessionaires for the service of alcoholic beverages at scheduled events. In order to obtain this type of license, the civic center or auditorium must be located within a city or township having a population of at least 9,500. The facility must be owned and operated as a municipal enterprise. Additionally, the local legislative body must authorize the governing body or its concessionaire to apply to the Commission for a license. These licenses may not be issued to an educational institution or a facility operated in connection with an educational institution and are not transferrable. MCL 436.1509

## **Club**

A Club license enables a private club to sell beer, wine, liquor and mixed spirit drinks to bona fide members only. MCL 436.1537(c)



## National or International Sporting Event Licenses

A maximum of 40 licenses may be issued for a period of not more than 30 days. The premises to be licensed must be in the central business district of a city having a population of 70,000 or more and the city must be the official host of the national or international sporting event. MCL 436.1517

## College/University Conference Center Licenses

A Class B-Hotel license may be issued to a university hotel and conference center under MCL 436.1514. The college or university must have a nationally accredited hospitality program at the baccalaureate and graduate levels. The teaching and research staff for the Hospitality Program must be predominantly individuals with doctoral degrees and the program must be 120 semester credits or the equivalent (for the baccalaureate degree). The facility must contain a hotel with at least 150 guest rooms and have restaurant seating for 125 guests serving a full-menu breakfast, lunch and dinner. The facility must be open year round, have over 30,000 square feet of flexible meeting space and must be able to restrict the sale and consumption of alcoholic liquor to table service only (unless public areas are reserved for private functions).

## Permits

### Banquet Facility Permits

Banquet Facility Permits are *extensions of issued, on-premises licenses* for the purpose of serving alcoholic beverages only at a designated, permitted facility that is also owned or leased by the licensee, which facility is used only for scheduled functions and events, does not have regular meal service and is generally not open to the public. The licensee must demonstrate that at least 50% of the gross receipts of the on-premises license is derived from the sale of food and nonalcoholic beverages prepared for consumption on the licensed premises. One banquet facility permit may be issued to an on-premises licensee per year however, the number of banquet facility permits the commission may issue within any local governmental unit is not limited. Approval of the local legislative body in which the facility is located is required. MCL 436.1522

### Special Activity Permits

The information on the following pages describes special activity permits which can be issued with the different types of retail liquor licenses. These activities may not be allowed on a licensed premises without having the appropriate special activity permit.

PERMIT TYPE	ISSUED TO	DESCRIPTION / ACTIVITY
Sunday Sales	On-Premise: Class C, Club, B-Hotel  Off-Premise: SDD  Resorts: Class C, B-Hotel, SDD	Allows Sunday sales of spirits between the hours of 12 noon and 12 midnight. Subject to these restrictions: Sunday sales must be legal in the local unit of government.  Gross sales of spirits must be less than 50% of the gross sales of the entire business, including beer and wine.
Living Quarters	On-Premise: Class C, Tavern  Off-Premise: SDD, SDM  Resorts: Class C, Tavern, SDD, SDM	Allows living quarters to be directly connected to the licensed premises.
Direct Connection Authorization	All types of retail licenses	Required to connect the licensed business with any unlicensed area which may or may not be under the direct control of the licensee.

PERMIT TYPE	ISSUED TO	DESCRIPTION / ACTIVITY
After Hours Food	All On-Premises licenses including resorts	Allows the business to stay open for the sale of food between 2:30 a.m. and 7 a.m. Monday through Saturday or between 2:30 a.m. and noon on Sunday. The business must operate a full service kitchen. The licensee must specify the hours requested. Sales or consumption of any alcoholic beverages are not allowed during these hours. Approval of local law enforcement is required.
Dance	All On-Premises licenses including Resorts	Allows dancing by patrons. The dance floor must be at least 100 feet square, well defined, clearly marked, and unobstructed when customer dancing is permitted. Approval of local police and legislative body is required.
Topless Activity	All On-Premises licenses including Resorts	Allows entertainment or work related activity performed on the licensed premises in which the female breast area is exposed by any means including see-through clothing or body stockings. This permit must be approved by both the local law enforcement agency and governmental unit.
Entertainment	All On-Premises licenses including Resorts	Allows dancing by employees or contract entertainers, or for monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing. Does not allow dancing by patrons.  Not required for orchestra playing, piano playing, or playing of other musical instruments, or for the showing of publicly broadcast television.  Police and local legislative body approval is required except in Detroit where only police approval is required.
Golf	All On-Premises licenses including Resorts	Allows the licensed premises to be occupied for registering golfers before the legal hour of 7:00 a.m. Alcoholic beverages cannot be sold or consumed on the premises during this period. Licensed premises must be adjacent to the golf course. Local police investigation and approval is required.
Additional Bar	Class C, B-Hotel, Class C Resort, B-Hotel Resort	Required for each bar over one on the licensed premises at which customers may purchase alcoholic beverages. Local law enforcement investigation and approval is required. Additional Bar Permits are not required for A-Hotels, Clubs and Taverns.
Bowling	Bowling alleys with any On-Premises License	Allows bowling on the licensed premises before or after the legal hours. The licensee must specify the hours of operation. Alcoholic beverages may not be sold or consumed during these hours. Local police investigation and approval is required.
Outdoor Service	All On-Premises Licensees including Resorts	Allows the sale and consumption of alcoholic beverages in a well-defined and marked area adjacent to the licensed premises. Local police investigation and approval is required.
Ski	All On-Premises licensees including Resorts	Allows the licensed premises to be occupied for the registration of skiers before or after the legal hours. Alcoholic beverages may not be sold or consumed on the premises during the period of the permit.
Miscellaneous	Specific purpose permits may be issued for other types of unique circumstances (i.e. tennis or racquetball) which require the premises to be occupied at other than the legal hour. These requests are considered on an individual basis.	

## **Local Approval for On-Premises Licenses**

### **Legislative Body and Law Enforcement**

In local governmental units with a population of less than 750,000, approval of the local legislative body is **required** for all on-premises licenses (both new and transfers) except Club and Special licenses. Approval of the local legislative body is also required for Dance, Entertainment, Topless Activity and Banquet Facility permits issued to licensees authorizing certain activities on the licensed premises. Approval and recommendation of the chief local law enforcement officer having jurisdiction is also part of the licensing process for all licenses and permits. MCL 436.1501, 436.1916, and MAC R 436.1105(3). The chart below shows which types of on-premises licenses and permits require local legislative body approval, and which require only local law enforcement investigation.

### **Summary of Local Approvals Required for On-premises Licenses and Permits:**

<i>Type of On-premises License:</i>	<i>Local Legislative Approval?</i>	<i>Local Law Enforcement Investigation Required?</i>
Class C & Resort Class C	Yes - except Detroit <sup>1</sup>	Yes
Club	No <sup>2</sup>	Yes
B-Hotel and Resort B-Hotel	Yes - except Detroit <sup>1</sup>	Yes
A-Hotel and Resort A-Hotel	Yes - except Detroit <sup>1</sup>	Yes
Tavern and Resort Tavern	Yes - except Detroit <sup>1</sup>	Yes
Special (24-hour)	No - except on state military bases	Yes
<i>Type of On-premises Permit:</i>		
Specific Purpose Permit		
Food, Golf, Bowling, Ski <sup>3</sup>	No	Yes
Dance	Yes <sup>2</sup> - except in Detroit <sup>1</sup>	Yes
Entertainment	Yes <sup>2</sup> - except in Detroit <sup>1</sup>	Yes
Topless Activity	Yes <sup>2</sup> - except in Detroit <sup>1</sup>	Yes
Banquet Facility Permit	Yes <sup>2</sup> - except in Detroit <sup>1</sup>	Yes
Additional Bar	No	Yes
Outdoor Service	No	Yes
Living Quarters	No	Yes
Direct Connection	No	Yes

1 - Because of the number of licensed establishments in the city of Detroit, it has a specialized liquor investigation process which includes technical approvals for zoning and ordinance investigation. Therefore, the local legislative approval requirement has been waived for Detroit by MCL 436.1501.

2 - Although Club licenses do not require legislative body approval, local approval is needed for Dance, Entertainment, Topless Activity permits issued to Clubs. Clubs must meet all local zoning and code requirements. MCL 436.1916, MAC R436.1105(3)

3 - Restaurants and similar establishments may receive permission from the MLCC to operate for a specific purpose (such as registering golfers) at other hours as long as all alcoholic beverages are sold only during legal hours. MAC R436.1437

4 - Any questions on local referenda for liquor sales should be referred to the Commission because of the complexity of the laws and relevant court cases.

### **Sunday Sales**

Legal hours of sale on Sundays are from 12:00 noon until 2:00 a.m. of the next day, unless locally prohibited. <sup>4</sup> Individual governmental units may prohibit the sale of alcoholic liquor on Sundays by resolution or ordinance, but local approval is not needed specifically for a Sunday Sales permit. **By state law, beer and wine may be sold after 12:00 noon on Sunday without special authorization however, sales may be prohibited locally by referendum.**

## Legislative Body Approval

When legislative body approval is required, contact the MLCC to obtain the necessary forms.

The local legislative body must take action before the license application can be submitted to the Commission for consideration. **All applications for transfer of ownership or new permits, in particular, should receive immediate consideration by the local government so that the transaction is not unduly delayed.**

NOTE: The MLCC will not accept conditional approvals except for the case where a local legislative body is waiting for final approvals from building or health inspectors. If the local government has no other objections to the application then approval can be accomplished by having the local law enforcement approval made subject to final inspection(s). The MLCC can also make its approval subject to final inspection by local law enforcement officials, thereby avoiding delay of the licensing process caused by the local legislative body having to pass a second, unconditional approval resolution.

## Club Licenses

As a courtesy to local governmental units, the Commission will contact you when an application for a new club license is received. Public notice of the intent of the Commission to issue the club license must be given by the club through publication in a newspaper of general circulation within the local governmental unit jurisdiction at least 10 days before the license is issued. The courts have ruled that this public notice is required in lieu of approval of the local legislative body. **If you object to a club license application, you must notify the Commission of the reason for your objection within 15 business days after receiving our notice.** The reasons must be based upon the Commission's licensing qualification rules or based on violation of building codes, health codes or zoning ordinances (Refer to MAC R436.1105). Copies of relevant local codes or ordinances (and of violations and convictions) should also be sent to the MLCC with your objection.

## Ordinance Prohibiting Retail Sale of Alcoholic Beverages MCL 436.2109

In addition to the previously mentioned local and county options that may be exercised relative to the sale of alcoholic beverages, a city, township or village may adopt an ordinance that prohibits all retail sales of alcoholic beverages within their borders. **This ordinance may only be adopted if there are no existing licenses issued within the local governmental unit for the retail sale of alcoholic beverages.** This includes licenses for the retail sale of alcoholic beverages for consumption both on and off the premises.

This ordinance must be submitted to the electorate at the next general or special election that is held. However, the election may not be less than 45 days after the adoption of the ordinance.

In the event the electorate affirms the ordinance, the Commission is prohibited from issuing a license for the retail sale of alcoholic beverages within that local governmental unit.

## Local Liquor Law Enforcement MCL 436.1543

Local units of government - cities, townships and villages - which have a full-time police department or a full-time ordinance enforcement department, receive 55% of all retail liquor license and renewal fees for each retail liquor license located in the boundaries of the local governmental unit.

Townships and villages who contract for local law enforcement sometimes use the returnable license fees as partial payment for the contracted county services. The treasurer of the local unit of government is required to sign an affidavit, provided by the Commission, certifying that the funds are used for liquor law enforcement activities.

The law enforcement agency is also responsible for completing the Applicant Investigation form, fingerprinting the license applicants, collecting the State Police fingerprinting fee and forwarding the form, card and fee to the MLCC for processing through the Michigan State Police. The State Police records are checked for Michigan criminal history. Local units of government may charge a separate fee for taking the fingerprints.

## TEST YOURSELF: On-premises Retail Licenses

- Q. There is an opening in the on-premises quota for our township. The Liquor Control Commission has sent us a listing of applicants for the available license. We have heard that a large restaurant is also interested in a piece of prime property. Must we approve one of the applicants for the available license?
- A. **No. The local governmental unit can decide when and if it wants to approve issuance of the available license. If you prefer to wait until a later time, you may.**
- Q. Part of our township was annexed to the neighboring city. A liquor license was contained within the geographical boundary of what was annexed. Do we now have an opening in our quota?
- A. **It depends on whether your township retained a sufficient population base to continue at the same quota. If your township was at its maximum number of licenses prior to the annexation, and if you have retained a sufficient number of people under the census to continue at the same number of licenses, then your township will have one additional license that can be issued. Additionally, the license that was in the geographical boundary annexed to the city will be counted as part of that city's quota licenses. If they were already at their quota, the license will still be counted for that local unit of government. The Commission cannot require that the number of licenses in that unit be reduced.**
- Q. Do on-premises Taverns and A-Hotels (sell only beer and wine) count as part of our city's quota?
- A. **Yes. Even though these licensees may not sell spirits, by law they do count towards the quota. However, Club licenses in your city do NOT count toward the population-based quota of licensees.**
- Q. Our township board is willing to approve an applicant above all others for a new on-premises license upon the condition that the applicant plant trees at the rear of the property. This condition will be added to the approval resolution being submitted to the Commission. Will the resolution be accepted?
- A. **No. Conditions on local approvals are private contractual agreements between the local governmental unit and the applicant. The recommendation by the community to the MLCC must be unqualified (except in the case of meeting health code or zoning/building requirements).**
- Q. A proposed on-premises or SDD licensed location is within 500 feet of a church. Should our village consider the proximity of the church to the proposed licensed premises?
- A. **It is the sole responsibility of the MLCC to make a determination regarding proximity to churches and schools. When it appears that a licensed location may be within the 500-foot limitation, Commission investigators will measure the distance. If the proposed location is within 500 feet of a church or school, the church or school will be notified (by certified mail) of their right to have a hearing to object to the proposed license location. If an objection is filed, a hearing will be held by the MLCC and the local governmental unit will be notified of the hearing date and location. If the church or school does not object to the proposed location, the Commission will proceed with the application process. The 500-foot rule does not apply to SDM (beer and wine) off-premises licensed businesses.**

## **Off-Premises Licensing**

This chapter will explain the types of **off-premises** licenses, the quota system, and the role of the local legislative body and the local law enforcement officials.

### **Off-premises Licenses**

These licenses are issued for businesses such as party stores, supermarkets, convenience stores, and drug stores where alcoholic beverages are sold for consumption off the premises.

- SDD**      **Specially Designated Distributor.** This license enables the licensee to sell packaged liquor (distilled spirits only) for consumption off the licensed premises. MCL 436.1111(11)
- SDM**      **Specially Designated Merchant.** This license enables the licensee to sell only beer and wine for consumption off the licensed premises and is not subject to quota restrictions. MCL 436.1111(12)
- SDD Resort**      In the years permitted by statute, the Commission can also issue a limited number of off-premises SDD resort licenses in governmental units where the population is 50,000 or less, and where there are no SDD licenses available under the quota. MCL 436.1531(5)

#### ***Summary of Off-premises License Information:***

Off-premises License Type	-Alcoholic beverage sold-			Licensed to sell to	Quota Applies?
	Beer?	Wine?	Liquor?		
SDD	NO	NO	YES	General Public	YES
SDD Resort	NO	NO	YES	General Public	NO
SDM	YES	YES	NO	General Public	NO

Note: Off-premises licensees may also sell up to 9 liters of spirits per month to an On-premises licensee (MCL 436.1205(10)).

## **Local Approval**

### **Ordinance and Zoning Compliance**

Off-premises licenses (SDM and SDD) do not require approval of the local governing body. Because the Commission's rules require that licensed locations be in compliance with all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, the Commission will notify you of any applications for a new license or a transfer of an existing license or location that are received.

The local governing body, or your designee (such as a building inspector or police agency), has **15 days** to notify the Commission of any instances of non-compliance. These must be outlined in detail indicating the specific laws or ordinances, and a copy of the applicable law or ordinance must be attached. If the Commission does not receive notification within 15 days, it will assume that the location complies with local laws and ordinances. MAC R436.1105 (3)

#### ***Summary of Local Approvals Required for Off-premises Licenses & Permits:***

<i>Type of Off-premises License:</i>	<i>Local Legislative Approval?</i>	<i>Local Law Enforcement Investigation Required?</i>
<b>SDD &amp; SDD Resort</b>	No	Yes
<b>SDM</b>	No	Yes
<i>Type of Off-premises Permit:</i>		
<b>Direct Connection</b>	No	Yes
<b>Living Quarters</b>	No	Yes
<b>Off-premises Storage</b>	No	Yes

**Sunday Sales - SDD**      The county board of commissioners must have authorized the sale of distilled spirits after 12:00 noon on Sunday. Beer and wine may be sold after noon on Sunday without special authorization from the MLCC — unless prohibited by local ordinances.

## Ordinance Prohibiting Retail Sale of Alcoholic Beverages

In addition to the previously mentioned local and county options that may be exercised relative to the sale of alcoholic beverages, a city, township or village may adopt an ordinance which prohibits all retail sales of alcoholic beverages within their borders. **This ordinance may only be adopted if there are no existing licenses issued within the local governmental unit for the retail sale of alcoholic beverages.** This includes licenses for the retail sale of alcoholic beverages for consumption both on and off the premises.

This ordinance must be submitted to the electorate at the next general or special election that is held after the ordinance is adopted. However, the election may not be less than 45 days after the adoption of the ordinance.

In the event that the electorate affirms the ordinance, the Commission is prohibited from issuing a license for the retail sale of alcoholic beverages within that local governmental unit. Revocation of the ordinance by the electorate is effective on the date of the certification of the election results. The commission may then issue retail licenses for the sale of alcoholic beverages within the local governmental unit. MCL 436.2109

## TEST YOURSELF: Off-premises Retail Licenses

- Q. *We believe our city has increased in population since the last federal Census. Can we conduct a special population count to determine if we are entitled to an additional SDD license within the quota?*
- A. **Yes. Under provisions of Act 279 of P.A. of 1909, as amended (Section 117.6 of the Michigan Compiled Laws) or under Section 7 of Act 245 of P.A. of 1975 (MCL 141.907) the local unit of government may, by resolution, request a special state census of the unit. For more information, call the Bureau of Elections, Special Census unit at the Secretary of State (517) 373-2540.**
- Q. *Our full-time charter township police department has neither the time, the funding, nor the expertise to conduct a local investigation for a liquor license that involves researching zoning ordinances, local health codes, and the other regulations that a licensee must comply with. How can we avoid doing this?*
- A. **You cannot. If your township treasurer signs the affidavit providing your township with 55% of the liquor licensing fees for each retail licensee located in the township, you must assume responsibility for enforcement of the liquor laws including local investigations.**

**This requirement is for the benefit of the township, not the Liquor Control Commission. In order to ease the demand on your police department, your township may want to set up a system to handle liquor matters. Most governmental units have a zoning and code enforcement team. You can have the premises inspected by the person responsible for these inspections, such as the building inspector or fire department.**

**Some smaller townships contract with the county sheriff for local law enforcement. If the township signed the required affidavit to receive the returnable license fees, then the Commission would mail the payment to the township. Presumably, the township would then use the funds to help pay the county contract. You should be aware, however, that these fund expenditures are audited.**

**Q.** *Our city council has approved a transfer of a license and conducted a local investigation. Does the Commission also conduct a separate investigation?*

**A.** Yes, and this applies to both on and off-premises applications. The MLCC investigators conduct an extensive investigation of the applicant. Our investigation focuses on the applicant's background and financial status. Commission investigators also examine the proposed location to determine if it meets the legal requirements for a specific license. This could mean that even though a person has been approved at the local level, the application could be denied by the MLCC. However, the local governmental body should not conclude that this means that an applicant has something undesirable in his or her background: there are many reasons that a person may not meet licensing qualification standards.

Local legislative approval is not required to transfer an off-premises license. You can make a recommendation and the Commission will consider it; however, the Commission is not bound to act according to a local recommendation as it is with on-premises transfers.

**Q.** *Our village council has been advised that an applicant for a liquor license wants to turn a former laundromat into a take-out party store and obtain both an SDM and SDD license. Although we have no objection to licenses being issued to the applicant, we feel there may be some problems with the location. There is a pin-ball/electronic game shop next door that is frequented by teenagers. The concern of people in the community is that sales to minors will occur. Can we object to the license being issued?*

**A.** There are two issues involved in this question.

First, can the village council legally object to the license being issued? Second, if the license is granted, are there automatically going to be problems with sales to minors?

Although the purpose of the local review is to determine whether there are any zoning or ordinance problems with the proposed licensed location, the MLCC (under Rule 436.1105 (2)(d)) may also consider the opinions of the local residents, legislative body, or law enforcement agency with regard to the proposed business. Therefore, the village council could choose to advise the MLCC of local concerns even though there are no violations of local ordinances or codes. The village can strengthen its objection by being very detailed.

A local unit of government should not assume that a licensee will sell alcoholic beverages to minors simply because a nearby business caters to teenagers. However, if it appears that the licensee is violating the law, your local law enforcement agency should investigate the licensee.

As shown in the next chapter, your village may request revocation of a license if the licensee is determined to be responsible for violating the Liquor Control Code or the MLCC Rules on three occasions within one year. In addition to Commission action, the licensee may be subject to criminal action and also to possible civil action.



## **Objection To Renewal & Revocation of License**

Local units of government have the right to **object to the renewal of an on-premises license**, and also may request that the MLCC **revoke an on-premises license**. Local governments may request that the MLCC **revoke an off-premises license**, but **may not object to renewal of an off-premises license**. These rights are accompanied by specific requirements that have evolved based on court decisions.

### **What licenses are subject to these actions?**

Because local units of government are required to approve public on-premises licenses, they may also object to renewal or request revocation of Class C, A-Hotel, B-Hotel, Tavern, Class C Resort, A-Hotel Resort, B-Hotel Resort, Tavern Resort, and Micro Brewer licenses.

Local governments may also request revocation of off-premises SDD and SDM licenses in their jurisdiction when: **(1)** the Commission has determined that the licensee has violated the Liquor Control Code by selling or furnishing alcohol to a person under 21 years of age on at least three occasions within a calendar year, and **(2)** those violations did not involve the use of false or fraudulent identification by the person under 21 years of age MCL 436.1501(3).

If a local unit of government objects to renewal or requests revocation of an on-premises retail license, and the licensee also has an off-premises SDM license, the Commission will also hold a “show cause” hearing to determine if there is any reason that the SDM license should not be renewed or revoked at the same time because the business no longer meets the licensing qualification requirements.

Local governments may also request revocation of a Dance, Entertainment, and/or Topless Activity Permit but must follow the rules of due process as outlined below.

### **Due Process**

Regardless of whether the local unit of government wishes to object to a renewal or request revocation of a license or permit, the licensee is entitled to due process. In **Bundo v City of Walled Lake (395 Michigan 679 [1976])**, the Michigan Supreme Court held that the liquor licensee has a property interest in the license and, therefore, is entitled to due process protection.

The procedural safeguards that the courts deemed necessary regarding a decision by the local body to object to renewal of a license consist of “**rudimentary due process**.” Courts have said this includes notice to the licensee of the proposed action and the reasons for the action, a hearing at which the licensee may present evidence, testify, and confront adverse witnesses, and a written statement of the findings. In **Roseland Inn, Inc. v Robert D. McClain and Township of Blackman and Liquor Control Commission (118 Michigan App [1982])**, the Court of Appeals held that a lack of standards and fair notification of the standards violates a licensee’s right to due process. Therefore, local units of government should consider the following guidelines and standards when pursuing an objection to renewal or a request for revocation of a liquor license:

### **Guidelines and Standards**

**Guidelines** - The local governmental unit (LGU) must establish standards or guidelines stating what conditions will constitute a basis for requesting non-renewal or revocation of a license.

**Notification of Guidelines** - The LGU must notify licensees of the guidelines and subsequent changes.

**Notification of Hearing** - If the local governmental unit is objecting to renewal or requesting revocation of license, it must give the licensee timely written notice of the hearing, including:

1. Date and location of the hearing.
2. The proposed action that the local legislative body is considering taking.
3. The detailed reasons for the proposed action (i.e., citing specific standards or guidelines the licensee has not complied with).

4. The licensee's rights at the hearing, including the opportunity to defend by confronting adverse witnesses and by being allowed to present witnesses, evidence, and arguments.
5. The licensee's right to be represented by an attorney.

**Hearing** - At the local legislative body hearing, the licensee must be given an effective opportunity to defend by confronting any adverse witnesses, evidence, and arguments.

**Resolution and Statement of Findings** - After the hearing, the local legislative body must make a written statement of findings and adopt a resolution indicating the specific action requested.

### **Required Documentation**

The local unit of government must send the following documents to the MLCC before the Commission can take any action regarding objection to renewal or revocation of a license:

1. A copy of the **standards or guidelines**, or a description of the guidelines established by the local governmental unit as to what would constitute a basis for objecting to renewal or to revoke the license. Please include the date of adoption and, when publishing in a newspaper, the name of the paper and date of publication.
2. A certified copy of the **notice** sent to the licensee.
3. Although not required, the Commission also recommends that the local governmental unit provide **proof of service** of the notice sent to the licensee in order to counter any questions as to whether the notice was indeed received by the licensee.
4. A certified copy of the **resolution** adopted by the local governing body objecting to the renewal of the license or requesting that the license be revoked. If a separate statement of findings is made, then a certified copy of that document must also be included. The resolution should not include both an objection to renewal of the license and a request that the license be revoked. If such a resolution is received, the Commission will proceed with the objection to renewal only.

Because all retail licenses expire on April 30, if your legislative body is objecting to renewal of a license, the request and all substantiating documents (as outlined above) must be received by the MLCC **no later than March 31 to be in compliance with the law.**

### **Differences between Objecting to Renewal and License Revocation**

**Objecting to Renewal** - When the proper documentation is received, the MLCC will stop renewal of the license. The existing license expires on April 30, preventing the licensee from legally selling alcoholic beverages after that date. The license will remain in escrow for one year, and cannot be placed in operation or transferred to another person or corporation unless the local legislative body adopts a resolution approving the renewal.

After one year, the licensee may request an extension — but the request may or may not be approved by the Commission. If the extension is denied and the licensee does not request a hearing regarding the denial, the license is permanently canceled. If an extension is granted, the license remains in escrow for another year but cannot be placed in operation or transferred to another person unless the local legislative body adopts a resolution approving renewal.

There is no immediate effect on the local license quota as a result of objecting to renewal as long as the on-premises liquor license is held in escrow. It still counts toward the limited number of licenses available in the city, township or village. However, the local unit will not receive the 55% share of the licensing fee that it normally would have received had the license remained active.

Local legislative bodies may adopt a resolution approving the license renewal at any time. The licensee may then renew the license and resume operation.

**Revocation of a License** - A resolution requesting revocation of a retail liquor license may be submitted at any time during the year. When proper documentation is received, the Commission is required by law to hold a hearing to consider the resolution. The local legislative body will be notified of the hearing, and a representative of the body or its legal counsel should attend. The sole purpose of this hearing is to determine if the licensee was afforded “rudimentary due process” as required by the courts. If it is found that due process was given the licensee, the license is immediately revoked by the MLCC. Revocation is a permanent action, and means that the licensee loses all ownership rights to the license.

The former licensee cannot transfer the revoked license. Also, the former licensee cannot apply for another liquor license for at least two years.

License revocation can also have an effect on the number of licenses available under the quota in the local governmental unit. If the city, township, or village is over the license quota (due to decreased population), then revocation of a license means that one less license is available.

As long as the city is at quota or below, a new license becomes available when one is revoked.

## **TEST YOURSELF: Objection to Renewal or Revocation of a License**

- Q. *Our city council wants to object to the renewal of a license for a bar because of non-payment of taxes. Can we do that?*
- A. **If your city council has developed standards or guidelines that state that non-payment of taxes is a reason that will be considered for objecting to renewal of a license, and if the other requirements of due process are followed, then your legislative body has complied with the requirements as far as the Liquor Control Commission is concerned. Remember that the city council must pass a resolution and have all of the required documents on file with the Commission no later than March 31. Following a review of the documents the Commission will determine whether or not it is appropriate to renew the license.**
- Q. *What kinds of standards should be in the guidelines?*
- A. **While the Commission does not presume to tell local governmental units what should be in their guidelines, some local units of government have inserted articles into their guidelines dealing with non-payment of taxes and other bills to the local governmental unit and articles dealing with excessive police calls, citizen complaints, and other nuisance-type problems. Others have incorporated certain violations of state laws into their guidelines.**
- Q. *Our township board is reluctant to get involved in objecting to a renewal or requesting revocation of licenses. Are we required to pass guidelines and act on them?*
- A. **No. The objection to renewal and revocation of license processes exist for those units of government that want to use them. You may find, however, that it is worthwhile to adopt guidelines now so that you do not have to react in a manner that could be construed as arbitrary or capricious should a problem develop in the future (retroactive application of your guidelines would not be legally binding).**
- Q. *Our city council has decided to pass a resolution and we have followed all of the provisions outlined. Our problem is that we are unsure whether to object to the renewal of a license or go so far as to request a license revocation. What should we do?*

**A.** The Commission does not advise local governmental units of the action they should take. The due process requirements for the licensee are the same regardless of whether the local government legislative body chooses to object to renewal of the license or decides to request revocation of the license. Remember that revocation is final, while objecting to renewal can be reversed if the licensee remedies the problem that prompted the action.

**Q.** *Our charter township board has followed all of the guidelines shown here and requested a revocation of a Class C license. Can we assume that this will end our involvement?*

**A.** No. In most instances, licensees will begin court actions against both the local unit of government and the Liquor Control Commission to enjoin the Commission from acting on the local legislative body's resolution, and to challenge the action of the local government. The Commission's role in the procedure is to determine whether the licensee was given "rudimentary due process" by the local unit of government. The Commission does not — and cannot — consider whether or not the reasons for the actions of the local governmental body are justifiable. This is up to the courts to decide.

The Commission strongly recommends that if your local government is considering objecting to renewal or requesting revocation of a license, you consult your attorney before beginning the action. The local governmental unit should recognize that there may be substantial legal costs involved in requesting that the Commission not renew or revoke a license because litigation may take months or years to complete.

**Q.** *Our township board objected to the renewal of a Class C license for non-payment of local property taxes. All of our actions were reviewed by the Commission and the license was not renewed. Yesterday the licensee paid the taxes. What should we do now?*

**A.** If you no longer object to renewal your local governing body must adopt a resolution approving the renewal before the license will be issued by the Commission.

**Q.** *We have had problems with complaints about noise and crowds around a bar which sponsors Friday and Saturday dance contests. Our city council has considered asking the MLCC to revoke the dance and entertainment permits granted to the establishment. Is this possible to do without revoking their license?*

**A.** Yes. Local Legislative actions may be limited to permits. Your city council can take action to ask the Commission to revoke permits granted to a licensee, but the same recommendations regarding due process and careful consideration of costs involved should be followed.

## **Enforcement of Michigan Liquor Laws**

This section is directed more specifically to local **law enforcement officials** who work with the Liquor Control Commission to ensure that the provisions of the Liquor Control Code are enforced. Because there are other publications which more thoroughly cover the Code and the Administrative Rules of the Commission, this section of the guide focuses on those areas where local law enforcement officials and private citizens have concerns about enforcement and jurisdiction.

### **Local Responsibility for Enforcement MCL 436.1201 (4)**

The **primary responsibility** for enforcement of Michigan's liquor laws lies with local law enforcement agencies. This means that the local law enforcement officials who have jurisdiction within the township, village, city and county boundaries are responsible for primary enforcement of the liquor laws.

### **Funding for Local Enforcement MCL 436.1543**

The Liquor Control Commission returns to local units of government 55% of the retail licensing fees received during the fiscal quarter. Each local unit of government is required to certify to the MLCC (using a form provided for that purpose) that the fees are being used for the enforcement of Michigan's liquor laws.

Failure to use the returnable license fees in the manner prescribed by the law — or failure to return the certification form — can result in the MLCC withholding the funds. The Michigan Treasury Department, Local Government Audit Division, may review how these funds are spent.

### **Liquor Control Commission Enforcement Investigators MCL 436.1201 (4)**

The Liquor Control Commission's investigators have **concurrent responsibility** for enforcement of the liquor laws. However, this authority is limited to actions against liquor licensees. Investigators spend the majority of their time reviewing applicants for liquor licenses and doing routine inspections. However, they also do undercover surveillance work throughout the state. ***Because they are not armed, and are not vested with the power of arrest, MLCC investigators will always request local or state police support when laws are being broken by someone other than a licensee or in cases where the potential for violence exists.***

Upon request, the Commission will also provide technical investigative assistance to local law enforcement agencies to help with unusual or complex investigations of suspected liquor law violations.

### **State Police MCL 436.1201 (4)**

The State Police have **concurrent jurisdiction** for enforcement of all of the state's liquor laws.

### **Right to Inspect Licensed Premises MCL 436.1217**

Liquor licensees are required to make their licensed premises available for inspection and search by a Commission investigator or local law enforcement officer at any time during its regular business hours, or when the licensed premises are occupied by a licensee or an employee.

### **MLCC Jurisdiction MCL 436.1217**

Because the Liquor Control Commission's jurisdiction is limited to **MLCC Licensees**, violations involving non-licensees are the responsibility of the county prosecutor and the local police agency. For example, the MLCC cannot take action at private parties unless minors are observed buying alcoholic beverages from a licensee. Action by the MLCC can be taken only against the licensee - not the unlicensed hosts or guests.

In cases involving **illegal drug sales** on the licensed premises, local, state and federal agents can seize the licensed premises and sell the property under the forfeiture proceedings of state and federal laws.

### **Citizen Complaints**

Local law enforcement officials and the MLCC frequently receive complaints from citizens regarding suspected violations of the liquor laws. These complaints typically involve:

1. Sales to minors.
2. Sales to intoxicated persons.
3. Violations of restrictions on the days and hours of operation.
4. Various illegal activities on the licensed premises such as gambling, drug dealing and prostitution.
5. Private parties for minors where alcoholic beverages are being furnished at non-licensed locations (not MLCC jurisdiction).
6. Sales of alcoholic beverages to non-members in a licensed club.

Citizen complaints should be treated seriously. It is the experience of commission investigators that a good job of enforcement of the state's liquor laws serves to minimize a multitude of other social problems.

### **Semi-Annual Public Hearings MCL 436.1215**

The Liquor Control Commission holds public hearings twice each calendar year for the purpose of taking complaints and receiving the views of the public regarding administration of the Liquor Control Code.

## **Responsibility for Licensing Activities**

### **Investigation**

As mentioned in the previous licensing chapters, the local law enforcement agency is also responsible for:

- A. Conducting investigations of applicants in order to determine whether to recommend that the license (retail and wholesale) be granted.
- B. Fingerprinting the applicant and collecting the State Police processing fee (currently \$15).
- C. Conducting an investigation of the proposed business location to determine whether it meets local codes and ordinances. This function may be conducted by various inspectors employed by the governmental unit with their reports being included in the law enforcement investigation report.

## **The Liquor Law Violation Administrative Process**

### **The Violation Report**

When law enforcement officers believe that a violation of Michigan's Liquor Code has occurred, they are authorized to write a Violation Report using the LC 600 form (forms provided by MLCC Enforcement). Violation Reports are sent to the MLCC where they are reviewed by an Assistant Attorney General (AAG) to determine whether the facts, as presented, indicate a violation of the Liquor Control Code or the Administrative Rules of the Commission.

If the AAG determines that there is insufficient evidence to support the charge, MLCC staff will request additional information from the concerned parties. If, based on the report (and subsequent information), the AAG still cannot find evidence that a specific section of the Code or Rules was violated, no further action will be taken.

If you write a Violation Report, you should be as specific as possible and try to answer any questions that you think may come up during the review by the AAG. ***Remember, the licensee will receive a copy of the Violation Report and all attachments that are with it.***

### **Violation Complaint**

If the AAG finds sufficient evidence to show a violation has occurred, a formal Violation Complaint is issued. It is common practice for the AAG to file a separate charge for each section of the Liquor Control Code and Administrative Rules which was allegedly violated.

For example, if a law enforcement officer observes a bartender selling an alcoholic beverage to someone under 21 and the person is also observed consuming the beverage, the AAG will cite (1) a violation of the Liquor Code for the sale of the alcoholic beverage, and (2) a violation for allowing the person under 21 to consume.

### **Formal Hearings**

The licensee is given the choice of acknowledging the complaint by mail and receiving a penalty from the MLCC without a hearing, or contesting the allegation by requesting a formal hearing to present evidence and testimony regarding the alleged violation. The licensee may be represented by an attorney. If the complaint was filed by a law enforcement official, the officer will receive a notice of the hearing and, as the complaining witness, must appear at the hearing.

## **Possible Actions Against Licensees under the Liquor Control Code**

### **Administrative**

After an acknowledgment or finding of a violation at a hearing, the Hearing Commissioner may suspend or revoke a license, assess a fine on some or all of the charges, order a transfer (forced sale) of the business ownership, or some combination of these penalties.

In those cases where a licensee is found guilty by the MLCC to be responsible for violations of selling or providing alcoholic beverages to minors or intoxicated persons on three occasions within any 24 month period, the MLCC is required to hold a hearing to suspend or revoke the license. This penalty is in addition to any imposed as the result of the individual hearings. MCL 436.1903

## **Criminal**

The Liquor Control Code provides that licensees who violate that statute may also be charged with misdemeanors for those same violations. MCL 436.1909

## **Civil**

Under Michigan law, a licensee may also be held liable in civil suits when the sale or furnishing of alcoholic beverages to a minor or intoxicated person is found to be the proximate cause of damage, injury or death of an innocent party. MCL 436.1801

### **Independent Criminal Complaint**

At the same time as a liquor law violation is being pursued through the Liquor Control Commission administrative process, the law enforcement officer can obtain authorization for a complaint and warrant through the local prosecuting attorney for any criminal violations by a licensee or other individual.

Any prosecution on criminal charges is independent of MLCC actions. A finding of guilt or innocence in the criminal matter does not necessarily affect the MLCC's violation proceedings.

### **Training in Liquor Law**

#### **Training Classes**

The MLCC works closely with community colleges, universities, police training academies, and in-service programs to provide training on Michigan's liquor laws. As time permits, the MLCC is willing to conduct special training sessions. To request a special training session, call MLCC Enforcement at (517) 322-1370.

#### **Other MLCC Publications**

The Commission also has three publications that local law enforcement officials may find beneficial. They are available by contacting the Lansing office at (517) 322-1345 or from the MLCC website at [www.michigan.gov/lcc](http://www.michigan.gov/lcc).

- A. ***The Michigan Liquor Control Code, Rules, and Related Laws Governing the Sale and Manufacture of Alcoholic Beverages.*** This publication contains the statutory language for the laws and rules governing alcoholic beverages. Due to its extensive size, a printing cost of \$5 is required.
- B. ***Michigan's Liquor Laws and Rules- A Guide for Retail Licensees.*** This guidebook for retail liquor licensees is similar to this one written in a non-legal style and is easy to understand. It covers the laws and MLCC rules that historically have caused the most problems for licensees.
- C. ***Law Enforcement Officers' Field Guide on the Liquor Control Code and Administrative Rules of the Commission.*** This pocket-sized reference manual provides excerpts from, and information on, Michigan's liquor laws and rules, along with other material such as how to complete and file a Violation report. This booklet is designed specifically for use by law enforcement personnel in day-to-day activities.

### **Law Enforcement Official Prohibited from Holding a Liquor License**

Law enforcement officials are prohibited from having a direct or indirect interest in a liquor license in their jurisdiction. This means that if you are responsible in any way for the enforcement of criminal laws, you or your spouse cannot rent, own a licensed establishment, or lease a building to a liquor licensee. Court cases have also extended this prohibition to local elected officials who may be responsible for law enforcement. If the Commission has any questions as to the individual's responsibility for law enforcement, the local governmental charter is used to determine eligibility. MCL 436.1523

## Test Yourself: Enforcement of Michigan Liquor Laws

- Q. *I am a village constable. Am I responsible for enforcement of the liquor laws?*
- A. **That depends on your responsibilities under the village charter. If you are authorized to bear arms and make arrests, then you are also responsible for enforcement of the liquor laws. If your position is more of an honorary position, then the township police or county sheriff will have the responsibility.**
- Q. *As city officials, we sometimes receive letters or telephone complaints about local bars or nightclubs. What should we do with citizen inquiries?*
- A. **It is advisable to pass these complaints or reports on to your local law enforcement agency for investigation. You may also report the information you receive to the MLCC for investigation by the Commission's enforcement staff.**
- Q. *Is training on the liquor laws available for our village police?*
- A. **Yes. Contact the MLCC Enforcement Division in Lansing at (517) 322-1370 for training information.**

### LIQUOR CONTROL COMMISSION OFFICES

Lansing — Michigan Liquor Control Commission  
7150 Harris Drive, P.O. Box 30005  
Lansing, Michigan 48909

General Information	(517) 322-1345	
Enforcement Division	(517) 322-1370	FAX (517) 322-1040
Financial Management	(517) 322-1382	FAX (517) 322-1016
Licensing	(517) 322-1400	FAX (517) 322-6137
Commission Office	(517) 322-1355	FAX (517) 322-5188
Licensing Toll Free Information Line	(866) 813-0011	
Enforcement Toll Free Contact	(866) 893-2121	

Farmington — Commission Office (248) 888-8840 FAX (248) 888-8844

#### Enforcement District Offices

<b>Farmington</b> 24155 Drake Road Farmington, MI 48335	(248) 888-8710	FAX (248) 888-8707
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<b>Escanaba</b> State Office Building 305 S. Ludington, 2 <sup>nd</sup> floor Escanaba, MI 49829	(906) 786-5553	FAX (906) 786-3403
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<b>Grand Rapids</b> 2942 Fuller, NE Grand Rapids, MI 49505	(616) 447-2647	FAX (616) 447-2644
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